

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR FISCAL YEAR 2012

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

NONDEPARTMENTAL WITNESSES

[The following testimonies were received by the Subcommittee on Homeland Security for inclusion in the record. The submitted materials relate to the fiscal year 2012 budget request for programs within the subcommittee's jurisdiction.]

PREPARED STATEMENT OF THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

OVERVIEW

Mr. Chairman and members of the subcommittee, thank you for this opportunity to submit written testimony to the subcommittee on the fiscal year 2012 funding needs for public transportation security within the budgets of the Federal Emergency Management Agency (FEMA) State and local grants program, and the Transportation Security Administration (TSA), Transportation Sector Network Management Mass Transit Division, and throughout the Department of Homeland Security (DHS). The American Public Transportation Association (APTA) urges the Congress to increase appropriations for the fiscal year 2012 Rail and Public Transportation Security grants within the FEMA State and local grants. Past appropriations have not come close to the levels authorized under the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53). We appreciate the funding that the Congress has provided to date, but at the recent levels, grant allocations to regions, and ultimately the awards to the individual transit agencies are inadequate.

Recent cuts to the public transportation security grant program continue a disappointing trend on support for surface transportation security programs. These grants are critical to transit agencies in meeting security improvement needs. Transit provides 18 times as many passenger trips as aviation, but aviation receives 12 times as much security funding as surface transportation security. Spending per passenger for transit security is 4 cents; for aviation it's \$8.67. Aviation security receives 215 times as much Federal funding per passenger as transit. Threats to public transportation continue to exist as we were reminded again last week with the terrorist bombing of the subway in Minsk, Belarus. Public transportation security investment should be increased, not decreased and I urge the Congress to find the resources to appropriate to levels consistent with those authorized in the 9/11 Commission Act.

ABOUT APTA

APTA is a nonprofit international association of nearly 1,500 public and private-member organizations, including transit systems and commuter, intercity and high-speed rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and State departments of transportation. APTA members serve the public interest by providing safe, efficient, and economical public transportation services and products. More than 90 percent of the people using public transportation in the United States and Canada are served by APTA-member systems. In accordance with the National Infrastructure

Protection Plan, APTA is recognized by DHS as serving in the capacity of the Mass Transit Sector Coordinating Council.

GREATER INVESTMENTS IN TRANSIT SECURITY ARE REQUIRED

Safety and security have always been the top priority of the public transportation industry. Since 9/11, transit systems have taken many steps to further improve security. Public transit agencies with State and local governments, have invested billions of dollars on security and emergency preparedness programs. While we recognize that as an open public infrastructure there are limitations on what specific steps can be taken to secure transit facilities and operations, I want to emphasize that there are still many steps that must be taken and many security improvements that can be made to improve the security of our systems and enhance the safety of our Nation's transit riders.

I have testified on numerous occasions of the well-established and significant risks that transportation and public transportation specifically, continue to face. As detailed below, the Government Accountability Office (GAO) and the Mineta Transportation Institute have chronicled the history of attacks on public transportation and the members of the subcommittee are certainly well aware of the history of attacks and the thwarted plots and continuing investigations that clearly make the case. However, the Congress continues to look at the issue of transportation security in the rigid structure of agency budget silos. I urge the subcommittee to evaluate the modal security needs independent of history or agency budget structure. While \$5.1 billion in budgetary resources are directed toward aviation security within the budget of the TSA, the priority budget for public transportation is within the FEMA State and local programs account. The Transit Security Grant Program (TSGP) is the principal source of security assistance for transit agencies and these grant funds can do more to enhance security than additional funds directed to the Federal agencies. At a level of \$250 million in fiscal year 2011, the commitment to surface transportation security does not register a fair comparison, even when including the TSA Surface Transportation account and excluding aviation security fees. The Congress seems to have locked Rail and Public Transportation Security grants into a budgetary pattern that is not based in any true evaluation of risk or need.

As I have testified previously, a study released by APTA in 2010 showed U.S. transit security needs nationwide at \$6.4 billion. Despite billions of dollars already invested from Federal, State, and local sources, these needs persist as our understanding of risk, consequence, response and recovery has changed, and technology and operational approaches are also different today.

Despite wide recognition of the risk to surface transportation and public transportation security, only \$1.25 billion of the \$3.4 billion authorized by the 9/11 act for public transportation security improvements has been appropriated. That legislation authorized \$3.4 billion and authorized additional funding for the security of rail carriers (freight, passenger, and commuter rail) over a 4-year period. Again, we find ourselves asking, why are important public transportation security needs going unfunded?

In 2010, Americans took more than 10.2 billion transit trips. People use public transportation vehicles more than 35 million times each weekday. As previously stated, this is 18 times the number of daily boardings on the Nation's domestic airlines. The consequences of a successful terrorist attack on a single high-capacity urban rail system during peak travel time will result in a devastating number of fatalities and injuries. It will have a crippling affect on the economy of that entire metropolitan area, with a potential ripple effect nationwide. We cannot avoid talking about the consequences, as the resources are not being dedicated where our needs truly exist.

TRANSIT SECURITY NEEDS ARE REAL AND REQUIRE ATTENTION

As we have stated before, and as the members of this subcommittee well know, authoritative sources have acknowledged that the risk to public transportation systems is real, and it has not diminished:

- The GAO released a 2002 report stating “about one-third of terrorist attacks worldwide target transportation systems, and transit systems are the mode most commonly attacked.”
- In 2007, the GAO reported to the Congress that “the characteristics of some passenger rail systems—high ridership, expensive infrastructure, economic importance, and location (e.g., large metropolitan areas or tourist destinations)—make them attractive targets for terrorists because of the potential for mass casualties and economic damage and disruption.”

- On February 29, 2008, the Office of Intelligence of TSA released a report concluding that public transportation in America remains vulnerable to terrorist attack. The report states: “The volume of previous attacks and recent plotting against mass transit systems overseas demonstrates continued strong terrorist interest in targeting this sector.” The report further states that: “Previous rail attacks in Madrid, London, and Mumbai could inspire terrorists to conduct similar attacks in the United States.”
- On September 30, 2009, the Honorable Michael E. Leiter, Director, National Counterterrorism Center, testified in the Senate that “al-Qa’ida continues to pursue plans for Homeland attacks and is likely focusing on prominent political, economic, and infrastructure targets designed to produce mass casualties, visually dramatic destruction, significant economic aftershocks, and/or fear among the population. The group also likely remains interested in targeting mass transit systems, and other public venues, viewed as relatively soft targets as evidenced by past al-Qa’ida attacks in London.”
- The federally funded and chartered, independent Mineta Transportation Institute has collected data on worldwide terror incidents and found more than 2,000 separate attacks on surface transportation—1,223 involving bombs and incendiaries—since 1970. These attacks caused 6,190 deaths and approximately 19,000 injuries.

This history calls for continued vigilance and continued investments in surface transportation security.

GRANT PROGRAM STRUCTURE AND OTHER RESOURCE NEEDS

We once again ask that the subcommittee include language that directs DHS to award funds directly to transit agencies and prohibits DHS from imposing a local match requirement, consistent with congressional intent expressed in the conference report of the 9/11 act. APTA has no objection to language included in the fiscal year 2010 conference report which directed FEMA to allow transit agencies to permit States to act as subgrantees. We believe that as long as transit agencies affirmatively choose to have their grants administered by their State administrative agencies, they should have that option.

Fiscal Year 2011 TSGP Grant Guidance

It is important that we emphasize here that there exist significant concerns among our Nation’s transit providers concerning the direction of the draft fiscal year 2011 TSGP Grant Guidance. APTA believes that a proposal to shift the grant program to an approach that targets a pre-designated list of specific critical infrastructures is ill-advised, and would preclude important system-wide security improvements, while also undermining the regional collaboration that exists under the current grant program. APTA and its members have urged the TSA to reconsider this proposal.

CONCLUSION

Mr. Chairman, once again we find ourselves calling attention to another major terrorist attack against mass transit riders. The deadly bombing of the subway in Minsk, Belarus has left security experts confused given the lack of significant ethnic or religious divides, nor history of violent political upheaval. Yet, unknown terrorists chose to set off a bomb in a crowded metro station in Minsk last week killing 12 people and wounding more than 150. We urge the subcommittee to never forget the several foiled plots against U.S. public transportation systems and the attacks on Madrid’s commuter trains, on London’s subways, or the seven bombs on Mumbai’s commuter trains. Those three international incidents alone resulted in 452 deaths and 3,000 injuries. We should not ignore those potential incidents that we have been fortunate to thwart here in the United States and we urge the Congress to recognize the need for continued vigilance in surface transportation security, by appropriating funds consistent with the levels authorized under the 9/11 Commission Act.

I thank the subcommittee for this opportunity to testify and we look forward to working with you and the Congress to advance our mutual goals of safety and security for the traveling public.

PREPARED STATEMENT OF THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

OVERVIEW

Mr. Chairman, thank you for this opportunity to provide testimony to the subcommittee on the fiscal year 2011 funding needs for public transportation security

within the budgets of the Federal Emergency Management Agency (FEMA) State and local grants program, and the Transportation Security Administration (TSA), Transportation Sector Network Management (TSNM) Mass Transit Division, and throughout the Department of Homeland Security (DHS). The American Public Transportation Association (APTA) asks the subcommittee to provide appropriations for the fiscal year 2011 Transit Security Grant Program (TSGP) in the amount of \$1.1 billion, the level authorized under the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53). We appreciate the funding that this subcommittee has provided, but at the recent levels, grant allocations to regions, and ultimately the awards to the individual transit agencies have limited what projects can be pursued and implemented. We urge the Congress to find the resources to appropriate the levels authorized in the 9/11 act.

ABOUT APTA

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GREATER INVESTMENTS IN TRANSIT SECURITY ARE REQUIRED

As I will discuss later in my testimony, it is well established that transportation and public transportation specifically, continue to face significant security risks. One only needs to look to the recent attacks in Moscow and the ongoing investigation and prosecution of conspirators in New York to be reminded of this. Safety and security have always been the top priority of the public transportation industry. Since 9/11, transit systems have taken many steps to further improve security. Public transit agencies with state and local governments, have invested billions of dollars on security and emergency preparedness programs. While we recognize that as an open public infrastructure there are limitations on what specific steps can be taken to secure transit facilities and operations, I want to emphasize that there are still many steps that must be taken and many security improvements that can be made to improve the security of our systems and enhance the safety of our Nation's transit riders.

In 2009, APTA conducted a new survey of U.S. transit agencies to update their security investment needs and their experience with the current program. The results of the survey demonstrate that security investment needs persist nationwide, with total needs for all transit agencies exceeding \$6.4 billion. Our previous survey in 2004 identified needs in excess of \$6 billion. Despite billions of dollars already invested from Federal, State, and local sources, it is important to understand that facilities have changed and expanded; our understanding of risk, consequence, response, and recovery has changed; and technology and operational approaches are also different than they were in 2004.

The Congress recognized the need to enhance the focus of DHS on surface transportation and public transportation security when it enacted the 9/11 act. That legislation authorized \$3.4 billion for public transportation security improvements, and authorized additional funding for the security of rail carriers (freight, passenger, and commuter rail) over a 4-year period. And yet, over the period covered by the 9/11 act authorizations, only \$1.25 billion of the \$3.4 billion authorized has been appropriated, and even less has ultimately been directed in grants to transit agencies. This is simply unacceptable. We must increase investments and meet our security needs now—before we are forced to ask the question “what could have been done?”

The legislation also set in place a number of the structural elements that APTA and the Nation's transit systems continue to emphasize as priorities, including broad eligibility for capital and operational improvements, a rejection of a “one-size fits all” approach to transit security, a recognition of the open nature of transit facilities and services, interagency coordination between DHS and the Department of Transportation (DOT), consultation and coordination at all levels of government and with industry stakeholders, and support for information sharing and intelligence analysis, standard development, and research and technology development.

TRANSIT SECURITY NEEDS ARE REAL AND REQUIRE ATTENTION

As we have stated before, and as the members of this subcommittee well know, authoritative sources have acknowledged that the risk to public transportation systems is real, and it has not diminished:

- The Government Accountability Office (GAO) released a 2002 report stating “about one-third of terrorist attacks worldwide target transportation systems, and transit systems are the mode most commonly attacked.”
- In 2007, the GAO reported to the Congress that “the characteristics of some passenger rail systems—high ridership, expensive infrastructure, economic importance, and location (e.g., large metropolitan areas or tourist destinations)—make them attractive targets for terrorists because of the potential for mass casualties and economic damage and disruption.”
- On February 29, 2008, the Office of Intelligence of TSA released a report concluding that public transportation in America remains vulnerable to terrorist attack. The report states: “The volume of previous attacks and recent plotting against mass transit systems overseas demonstrates continued strong terrorist interest in targeting this sector.” The report further states that: “Previous rail attacks in Madrid, London, and Mumbai could inspire terrorists to conduct similar attacks in the United States.”
- On September 30, 2009, the Honorable Michael E. Leiter, Director, National Counterterrorism Center testified in the Senate that “al-Qa’ida continues to pursue plans for Homeland attacks and is likely focusing on prominent political, economic, and infrastructure targets designed to produce mass casualties, visually dramatic destruction, significant economic aftershocks, and/or fear among the population. The group also likely remains interested in targeting mass transit systems, and other public venues, viewed as relatively soft targets as evidenced by past al-Qa’ida attacks in London.”
- The TSA Office of the Inspector General released a March 2010 report highlighting the need for greater attention by TSA in surface transportation emergency planning and response capabilities.
- The federally funded and chartered, independent Mineta Transportation Institute has collected data on worldwide terror incidents and found more than 2,000 separate attacks on surface transportation—1,223 involving bombs and incendiaries—since 1970. These attacks caused 6,190 deaths and approximately 19,000 injuries.

DHS has the responsibility to ensure the safety and security. All of the official government and independent analyses of risk and threat cite transportation modes as a potential target for terrorism. As a result, it is the mission of the TSA to protect “the Nation’s transportation systems to ensure freedom of movement for people and commerce.” We couldn’t agree more vigorously with that mission statement! However, one only needs to look at the TSA Web site to realize that the agency continues to focus in a sizable and disproportionate manner on one mode of transportation above all others. There is no mention of surface transportation anywhere to be found at the forefront of the TSA Web site.

Let me be very clear—and we have been consistent in our views on this—no one questions the security requirements of our Nation’s aviation system. But the scope and scale of the disproportionate attention and dedication of resources to one mode of travel over all others is hard to ignore. In 2009, Americans took more than 10.2 billion transit trips. People use public transportation vehicles more than 35 million times each weekday. This is 18 times the number of daily boardings on the Nation’s domestic airlines. Make no mistake; a successful terrorist attack on a single high capacity urban rail system during peak travel time could result in a devastating number of fatalities and injuries. In addition, it would have a crippling affect on the economy of that entire metropolitan area, with a potential ripple effect nationwide. We do not want to scare anyone, but at the same time we cannot continue to avoid talking about the consequences, as the resources are not being dedicated where our needs truly exist.

OTHER PROGRAM REQUIREMENTS AND RESOURCE NEEDS

We further ask that you again include language that directs DHS to award funds directly to transit agencies and prohibits DHS from imposing a local match requirement, consistent with congressional intent expressed in the conference report of the 9/11 act. APTA has no objection to language included in last year’s conference report which directed FEMA to allow transit agencies to permit States to act as subgrantees. We believe that as long as transit agencies affirmatively choose to have their grants administered by their State administrative agencies, they should have that option.

We are pleased that many steps have been taken at FEMA and TSA to improve the TSGP application and award process, and we appreciate the attention that the Congress has placed on the difficulties inherent in this process. However, we urge your continued oversight and attention to opportunities to simplify and streamline the process. We are hopeful that the oversight efforts of the Congress, which have led to recent proposed reforms in the TSGP grant process, will achieve the desired results and expedite the delivery of funds to transit agencies with security improvement needs.

In addition to grant funding, we urge the Congress to provide \$600,000 to TSA TSNM Mass Transit Division for the continued operations of the Public Transit Information Sharing Analysis Center (ISAC). Funding for this program was authorized in the 9/11 act bill under section 1410 (d), which provides for the sharing of security information between transit agencies and DHS. The ability to share vital information is crucial in preventing and mitigating potential terrorist attacks. We have been advised by TSA that resources for the Public Transit ISAC are part of the TSA budget for TSNM. Further, a joint industry/government working group formed under the auspices of the Mass Transit SCC/Government Coordinating Council is currently refining a proposal for security information sharing that would look to the PT-ISAC to becoming a permanent, expanded system that would coordinate the dissemination of all relevant security information to the public transit industry.

We also urge the Congress to provide \$500,000 to DHS for the development of transit security standards. Over the last several years, APTA has worked closely with the DOT, DHS, and industry leaders to develop standards that help transit agencies use available resources as effectively as possible. It is our understanding that resources are factored into the TSA budget for this continuing effort, but we urge the subcommittee to support the TSA in this regard. The ISAC and security standards are two important national programs that, although modest in funding needs, can significantly enhance transit security at the local level.

Finally, with regard to technology research and development, resource allocation issues within DHS have failed to adequately address the research and development needs of transit. In September 2008, the Mass Transit SCC Security Technology Working Group issued draft recommendations which identified concerns over the lack of a formal structure that brings the Federal Government and transit industry together to discuss transit security technology priorities, needs and areas of potential interest for technology advancement and research. There is a general view that TSA Research and Development, and DHS Science and Technology do not conduct adequate early outreach with the industry to determine needs ahead of actual technology development and deployment efforts. Transit security professionals believe that early and active engagement of industry could lead to a better understanding of varying transit agency needs, as well as better research and development overall.

Finally, resources such as technical assistance and the like may be necessary for support of transit industry efforts in the area of cybersecurity. Concerns over cybersecurity have increased across the Federal Government and throughout the country over recent years, and transit agencies are no different. As significant users of power and computerized control systems, cybersecurity will remain a significant concern for an industry responsible for the safe and secure movement of 35 million daily riders.

CONCLUSION

Mr. Chairman, the recent suicide bomb attacks in Moscow provided an unwanted but graphic reminder of the threats our industry continues to face. We cannot forget the attacks on Madrid's commuter trains, on London's subways, or the seven bombs on Mumbai's commuter trains. Those three incidents alone resulted in 452 deaths and 3,000 injuries. We should also not ignore those potential incidents that we have been fortunate to thwart. More details have emerged about the plans involved in the al-Qaeda-inspired New York subway bomb plot, and the reports surrounding this plot alone should emphasize the need for continued vigilance in surface transportation security.

I thank the subcommittee for this opportunity to testify and we look forward to working with you and the Congress to advance our mutual goals of safety and security for the traveling public.

ATTACHMENT, APTA SURVEY OF UNITED STATES TRANSIT SYSTEM SECURITY NEEDS

SUMMARY AND PRINCIPAL FINDINGS

The American Public Transportation Association (APTA) conducted a survey of 35 of its transit agency members during 2009 and early 2010 to determine agency security funding requirements, grants received in prior fiscal years, and the projects advanced through prior year grants. The participating transit systems were selected from APTA members who are eligible recipients of Federal Emergency Management Agency (FEMA) Transit Security Grant Program (TSGP) funding. Additional estimates of national needs were expanded beyond the survey respondents based on the portion of transit operations represented by the responding systems in six categories that represent equipment, infrastructure, and activity that requires security efforts. The principal findings of that survey are:

- Total security needs far surpass funding provided to date. Transit agency security-related investment needs are \$6.4 billion. This amount is a 5-year estimate and includes \$4.4 billion for transit agency security-related capital investment plus \$2 billion for security-related personnel and other security-related operational expenses. Federal funding provided in fiscal year 2010 for public transportation security was \$253 million.
- Capital security needs remain a top priority, but many agencies cite operating needs. Respondents to the survey estimated capital needs as exceeding operating needs by more than a 3-to-1 ratio. Disparities in priorities between large and small systems are indicative of the differences in infrastructure and assets requiring protection. Security operations needs are more likely to comprise a larger percentage of need for smaller systems.
- Transit security priorities vary from agency to agency. Survey responses demonstrate that security priorities are unique to each individual agency, just as each individual agency's infrastructure, operations and governance is unique. Transit agencies seek more flexibility in the uses of funds and a streamlined application process. A broad list of eligible projects formed the basis for the National Transit Systems Security Act of 2007 as contained within the Implementing Recommendations of the 9/11 Commission Act (Public Law 110–53).
- Transit security resources are required beyond grant funds. Beyond the grant funding sought by transit agencies, resources are needed in a variety of components within the Department of Homeland Security (DHS), including funding for information sharing and intelligence, security standards development, research and technology development, technical assistance, and the broader approaches towards cybersecurity and resiliency (all-hazards response).

APTA SURVEY OF UNITED STATES TRANSIT SYSTEM SECURITY NEEDS

APTA conducted a survey of 35 of its transit agency members during 2009 and early 2010 to determine agency security funding requirements, grants received in prior fiscal years, and the projects advanced through prior year grants. The participating transit systems were selected from APTA members who are eligible recipients of FEMA TSGP funding. The sample of systems operates 43.0 percent of all transit vehicles that were reported in the Federal Transit Administration (FTA) National Transit Database in 2008, operates 52.4 percent of all revenue vehicle miles, operates 64.0 percent of all passenger stations and 62.9 percent of all rail transit right-of-way measured by directional-route miles, and carries 71.8 percent of all passenger trips and 68.1 percent of all passenger miles of travel.

TRANSIT FUNDING NEEDS

Respondents were asked to report their 5-year security funding needs for capital and for operations. Table 1 shows those needs as reported by the participating agency and expanded to include other transit agencies.

TABLE 1—FIVE-YEAR SECURITY FUNDING NEEDS

[Millions of dollars]

Transit systems included in estimate	Five-year funding needs		
	Capital	Operating	Total
Respondents to survey for these questions	2,204	655	2,859
Systems eligible for TSGP funds	3,286	1,518	4,804
All transit agencies in any location	4,419	2,018	6,437

The security funding needs over the next 5 years for all transit systems are \$6.4 billion, \$4.4 billion for capital, and \$2.0 billion for operating. Among all transit systems eligible for TSGP funding these needs are \$4.8 billion, \$3.3 billion for capital, and \$1.5 billion for operations.

These needs are based on the 34 survey respondents who were able to forecast capital funding needs and the 33 who were able to forecast operating funding needs. Respondents which provided needs estimates found a total security-related funding need of \$2.9 billion for their systems, \$2.2 billion for capital uses, and \$0.7 billion for operations. The responses were expanded to estimate needs for other transit agencies. The expansions were based on the portion of transit operations represented by the responding systems in six categories that represent equipment, infrastructure, and activity that requires security efforts. These categories are the following: total vehicles operated, vehicle miles in revenue service, unlinked passenger trips, passenger miles, stations, and directional miles of rail routes. Data are taken from the 2008 National Transit Database and APTA's 2009 Public Transportation Fact Book.

APTA published a survey of transit systems security needs in April 2004. That survey was used to project security funding needs for the entire transit industry. Capital needs to "maintain, modernize, and expand" the security function were \$5.2 billion without a specified time period. Annual operating needs were \$800 million which included existing security operating expenses. Those needs are most comparable to the \$6.4 billion need for all agencies for the next 5 years estimated in this survey.

SECURITY FUNDS RECEIVED DURING THE PAST 3 YEARS

Respondents were asked the amount of funds they received during each of fiscal years 2006, 2007, and 2008 for security-related projects regardless of the source. Because these amounts are not expected to be of a similar amount for nonparticipating systems in any consistent manner, no funding estimates are made for nonparticipating systems. Transit security grants were also distributed during fiscal years 2003, 2004, and 2005; however, this survey limited the request to the most recent 3 fiscal years for ease of reporting. Data regarding fiscal year 2009 grants was not available at the time of this survey.

TABLE 2—SECURITY PROJECT FUNDING FOR SURVEY PARTICIPANTS

(Millions of dollars)

Funding source	Funding amount for participating systems only		
	Fiscal year 2006	Fiscal year 2007	Fiscal year 2008
TSGP grants	103.8	146.3	143.2
Agency match for TSGP grants	0.6	5.5	4.8
State, local security grants	46.6	41.5	41.1
Agency match for State, local grants	26.7	19.7	18.2
Total security funding	177.7	213.0	207.3

USE OF FUNDS DEFINED BY PROJECT EFFECTIVENESS GROUP DESCRIPTIONS

FEMA groups security projects into five categories termed project effectiveness group descriptions (PEGD) which are used to prioritize investments. The five groups and the project types they include, as described in the fiscal year 2010 Transit Security Grant Program Guidance and Application Kit December 2009, are:

- Priority group A, "training, operational deterrence, drills, and public awareness activities" which includes: developing security plans; training (basic before follow-on) for security awareness, DHS-approved behavior recognition detection courses, counter-surveillance and immediate actions for security threats/incidents; operational deterrence for canine teams, mobile explosives screening teams, and anti-terrorism teams; crowd assessment; and public awareness.
- Priority group B, "multi-user high-density key infrastructure protection" which includes: anti-terrorism security enhancement measures, such as intrusion detection, visual surveillance with live monitoring, alarms tied to visual surveillance system, recognition software, tunnel ventilation and drainage system protection, flood gates and plugs, portal lighting, and similar hardening actions for: tunnel hardening; high-density elevated operations, multi-user high-density stations, and hardening of supervisory control and data acquisition systems.

- Priority group C, “single-user high-density key infrastructure protection” which includes: anti-terrorism security enhancement measures for high-density stations, and high-density bridges.
- Priority group D, “key operating asset protection” which includes: physical hardening/security of control centers; secure stored/parked trains, engines, and buses; bus/rail yards; and maintenance facilities.
- Priority group E, “other mitigation activities” which includes interoperable communications, evacuation plans, and anti-terrorism security enhancement measures for low-density stations.

In addition, larger systems in high-risk areas meeting activity criteria are eligible for funding for operational activities with Operational Package (OPack) funds.

Table 3 reports the number of agencies in the sample which received TSGP funds and matching funds for use for each PEGD category for fiscal years 2006, 2007, and 2008 in the columns to the left and the use of funds from other sources in similar categories for the same years in the columns to the right. Thirty-five systems answered each question.

TABLE 3—USE OF FUNDS BY PEGD CATEGORY

Project effectiveness group description category	Use of TSGP—number of grants by category			Use of non-Federal funding sources, number of grants using funds by category		
	Fiscal year 2006	Fiscal year 2007	Fiscal year 2008	Fiscal year 2006	Fiscal year 2007	Fiscal year 2008
A. Training, operational deference, drill, public awareness	8	24	20	6	8	8
B. Multi-user high-density key infrastructure protection	12	13	16	8	8	8
C. Single-user high density key infrastructure protection	7	5	5	5	5	7
D. Key operating asset protection	19	16	11	11	12	10
E. Other mitigation activities	5	6	7	7	9	8
Operational Packages (OPacks) .....	.....	8	5	5	6	5

USE OF FUNDS BY PROJECT DESCRIPTIONS

Participating transit systems were asked an open-ended question to list examples of the types of projects for which they used security funding. The question was repeated for each year for both TSGP and matching funds and State and local funding. Table 4 counts those answers in generalized categories into which they appeared to fit. Not all answers are included and many participants did not answer for each year. This table is thus a list of project types and should not be considered a count of the number of each project type actually undertaken.

TABLE 4—GENERAL TYPES OF PROJECTS REPORTED BY PARTICIPANTS

Type of Project	Projects implemented—categorized by general types (open-ended question, not all systems answered question for each year and not all uses were listed)					
	TSGP and matching funds			State and local funding		
	Fiscal year 2006	Fiscal year 2007	Fiscal year 2008	Fiscal year 2006	Fiscal year 2007	Fiscal year 2008
Closed circuit TV and CCTV support	15	7	10	7	7	7
Access control	5	2	3	2	3	2
Intrusion/perimeter monitoring/protection	2	6	4	2	4	2
Chemical detection equipment	2	.....	.....	.....	.....	.....
Awareness training	4	1	2	.....	.....	.....
Behavior recognition software	1	.....	.....	.....	.....	.....
K-9 related equipment/training	1	.....	.....	1	1	2
Training and exercises	7	14	15	.....	.....	1
Public awareness	1	2	3	.....	.....	.....
Communications improvements and equipment upgrades	3	.....	2	2	1	5
Tunnel communications	1	.....	.....	.....	.....	.....
Security planning	1	1	3	.....	1	.....
Infrastructure protection/fencing/lighting	1	.....	.....	2	2	3

TABLE 4—GENERAL TYPES OF PROJECTS REPORTED BY PARTICIPANTS—Continued

Type of Project	Projects implemented—categorized by general types (open-ended question, not all systems answered question for each year and not all uses were listed)					
	TSGP and matching funds			State and local funding		
	Fiscal year 2006	Fiscal year 2007	Fiscal year 2008	Fiscal year 2006	Fiscal year 2007	Fiscal year 2008
Control center and control equipment redundancy/improvement	2	1	.....	.....	.....	.....
Tunnel protection and tunnel access equipment	2	3	2	.....	.....	.....
Vehicle location system	1	.....	.....	.....	.....	.....
Portal security	1	.....	2	.....	.....	.....
Station security	1	1	1	1	1	.....
Passenger information systems .....	.....	1	.....	.....	.....	.....
Risk assessment .....	.....	1	3	.....	.....	.....
License plate recognition equipment .....	.....	.....	1	.....	.....	.....
Electronic security .....	.....	.....	1	.....	.....	.....
Guards, police .....	.....	.....	.....	4	4	4

USE OF FUNDS VS. ACTUAL NEEDS

It is important to note that survey responses on funding uses should not be seen as indicators of transit agency security funding priorities. Instead they are provided to simply demonstrate where funding has been spent. APTA and many of its members continue to have concerns that the categorical prioritization of funding within the TSGP unnecessarily restricts agencies from applying for security grants for projects they would otherwise deem more important to their specific agency security mission. The statutory provisions of the Implementing Recommendations of the 9/11 Commission Act which outlined the eligible use of funds did so in a broad and generic manner in order to specify the wide range of eligible uses, and not in the restrictive and prioritized manner prescribed by TSGP grant guidance.

RESPONDENTS VIEWS ON THE ADMINISTRATION OF THE TSGP

[Note: Changes to TSGP administration have been implemented in response to grantee concerns since APTA's survey was conducted, some of which are reflected in the fiscal year 2010 Grant Guidance.]

The administration of the TSGP has been of significant concern to the transit industry over the last several years, with changes to policy and priorities occurring each year creating challenges for grantees to implement their own security budgets, plans and programs in a consistent manner. APTA's survey asked open-ended questions regarding grantees views on the TSGP administration.

Many agencies sought additional availability of funds for operational security needs, while other agencies felt the program should be limited to capital security improvements. It was widely viewed that TSGP grants should be comprised of 100 percent Federal funding, so as not to jeopardize important security projects because of other budget limitations. Multiple comments were received calling for operating and maintenance costs of TSGP funded equipment to be considered an eligible expense.

The grant process timeline was widely perceived as too long and time consuming given the amount of funds available to agencies. Early release of grant guidance was a recommendation that would allow for timelier grant application submission.

Concerns were expressed that the TSGP did not allow "pre-award" authority. This inconsistency with Federal Transit Program grants not only added to confusion in agency dealings with FEMA and the Transportation Security Administration (TSA), but also had the potential to lead certain project expenditures to be ineligible because of relatively minor administrative details, thereby affecting the transit agency's ability to expend the funds as programmed.

A variety of administrative process recommendations were made in the comments section, such as urging DHS to follow the FTA practice of utilizing annual audits for agencies with certified grantees business systems and practices. Many of the paperwork requirements and record keeping processes in place were seen as duplicative.

Additional projects that have been excluded or overly restricted include consequence management projects, continued sustenance and life-cycle maintenance of security projects, interoperable communications, and redundant power systems. Current allocations for management and administration are not sufficient for long term

capital endeavors. Agencies require more flexibility in the assignment of in house flagging and escort crews for work tied to security projects. Some agencies argued for allowable costs to include program administration and project management. Several respondents argued that the guidance was unnecessarily restrictive as to the use of funds, since threats and technology are regularly subject to change. As well, needs vary from transit agency to transit agency according to inherent risk exposures and current state of infrastructure and technological applications.

Many agencies commented that operational funding should be available for projects and purposes other than the currently defined OPacks. Not all transit agencies control their own sworn law-enforcement, and as such often contract for services—often with private contractors or sworn forces of surrounding jurisdictions. The unavailability of funds for these purposes is seen as an unnecessary restriction.

Some agencies felt that the current grouping of agencies into tiers did not adequately correlate their tier to their risk, due to perceived unique regional security concerns. Smaller systems complained that despite their eligibility under the tier system, they either had not been successful at obtaining grant funding. Some smaller agencies felt that minimum project amounts should be eliminated.

The wide variety of comments from agencies supports APTA's consistent call for less restrictive security grants and for a process that avoid the one-size-fits-all approach.

OTHER SECURITY NEEDS NOT IDENTIFIED IN THIS SURVEY

The funding needs and uses identified through this survey do not include Department-centric budgetary resources, such as those required for intelligence and information sharing, security standards development, and research and development.

Information and Intelligence

A high priority for the transit industry in the area of information sharing and intelligence is the continuation of a small but critical amount of annual funding for the annual maintenance of the Public Transportation Information Sharing and Analysis Center (PT-ISAC). Established in response to Presidential Decision Directive 63 and Homeland Security Presidential Directive 7 (HSPD-7), the PT ISAC is seen by transit security professionals as a highly valuable interactive resource for the dissemination and sharing of industry specific information and intelligence. A joint industry/government working group formed under the auspices of the Mass Transit Sector Coordinating Council (SCC)/Government Coordinating Council (GCC) is currently refining a proposal for security information sharing that would look to the PT-ISAC to becoming a permanent, expanded system that would coordinate the dissemination of all relevant security information to the public transit industry.

Security Standards

A similar high priority for the industry requiring continued, but relatively small amounts of funding is the transit security standards development program. Produced through the consensus-based process recommended by the American National Standards Institute and fully inclusive of Federal stakeholders including the TSA, FTA, and Federal Railroad Administration, the transit security standards program serves an extremely important guiding role for future policies and investments in transit security.

Research and Development

Additionally, resource allocation issues within DHS have failed to adequately address the research and development needs of transit. In September 2008, the Mass Transit SCC Security Technology Working Group issued draft recommendations which identified concerns over the lack of a formal structure that brings the Federal Government and transit industry together to discuss transit security technology priorities, needs, and areas of potential interest for technology advancement and research. There is a general view that TSA Research and Development, and DHS Science and Technology do not conduct adequate early outreach with the industry to determine needs ahead of actual technology development and deployment efforts. Transit security professionals believe that early and active engagement of industry could lead to a better understanding of varying transit agency needs, as well as better research and development overall.

Cybersecurity

Also, resources such as technical assistance and the like may be necessary for support of transit industry efforts in the area of cybersecurity. Concerns over cybersecurity have increased across the Federal Government and throughout the country over recent years, and transit agencies are no different. As significant users of

power and computerized control systems, cybersecurity will remain a significant concern for an industry responsible for the safe and secure movement of 35 million daily riders.

Technical Support

Since September 11, 2001, the FTA initially and DHS subsequently have offered technical support from time to time to assist transit agencies in the ongoing development and strengthening of their security plans, processes, procedures and resources. This level of Federal support continues to be an imperative need and necessitates DHS to ensure that such technical assistance is appropriately funded.

Resiliency and All-Hazards

Finally, as DHS and many others in the homeland security policy arena discuss issues of resiliency and “all hazards” approaches to security and emergency management policy, transit agencies are increasingly looked to as instruments for disaster response and evacuation, and as such have repeatedly responded to major incidents ranging from 9/11 to Hurricanes Katrina and Rita. Views on the resources made available to the Department for its overall budget should not overlook the potential transit needs in “all-hazards” response to the resiliency question.

ABOUT PUBLIC TRANSPORTATION IN THE UNITED STATES

The United States transit industry carries more than 10 billion riders a year for more than 50 billion passengers miles. In 2008, 7.2 million people used transit as their primary means of commuting to work, 23 percent more than commuted on transit in 2000.

Transit service is provided by more than 387,000 employees operating 137,000 vehicles in the peak service period each weekday. Transit rail cars, buses, and vans provide 4.6 billion miles of revenue service in a year. Twenty-six commuter rail systems, 15 heavy rail systems, and 35 light rail systems provide service more than 11,270 directional miles of routes, and along with bus service stop at 4,500 stations and numerous street locations.

APTA’s Security Affairs Steering Committee serves in the role of the Mass Transit SCC.

LETTER FROM MARINE CONSERVATION BIOLOGY INSTITUTE

APRIL 19, 2011.

Hon. MARY L. LANDRIEU,
Chairman, Subcommittee on Homeland Security, Washington, DC.

DEAR MADAM CHAIRWOMAN AND MEMBERS OF THE SUBCOMMITTEE: Marine Conservation Biology Institute (MCBI), based in Bellevue, WA, is a nonprofit conservation organization whose mission is to protect ocean ecosystems. We use science to identify places in peril and advocate for bountiful, healthy oceans for current and future generations. I wish to thank the members of the Homeland Security Appropriations Subcommittee for the opportunity to submit written testimony on the fiscal year 2012 appropriations for the United States Coast Guard (USCG). MCBI recommends \$10.791 billion for the USCG in fiscal year 2012. This amount would reinstate fiscal year 2010 funding levels, with an additional \$2 million to combat marine debris as mandated by law.

The USCG is a multi-mission agency, stretched by many demands. MCBI supports the USCG in their efforts to reach their goals in providing maritime safety, security, mobility, national defense, and protection of natural resources. The fiscal year 2012 President’s request has decreased the USCG’s overall budget by more than \$450 million, including a decrease of \$147 million for marine environmental protection, one of the USCG’s 11 missions. We are concerned about this decrease and what it portends in terms of the further degradation our oceans.

MARINE DEBRIS

Marine debris has become one of the most widespread pollution problems affecting the world’s oceans and coasts. As highlighted by the “Great Pacific Garbage Patch” in the North Pacific Ocean, and garbage patch in the Atlantic Ocean, marine debris is a growing problem that is manifesting itself in all United States waters, including in Hawaii, Alaska, Louisiana, and the Caribbean. Research has shown that debris seriously affects the marine environment, marine wildlife, the economy, and human health and safety.

Marine debris harms marine and coastal communities by damaging marine habitat like coral reefs, transporting non-native and invasive species to new habitats, causing navigational hazards and vessel damage, and harming and entangling wildlife. Some of the most common types of marine debris are discarded or lost fishing lines and nets, household plastics such as disposable lighters, six-pack rings, plastic bags, and Styrofoam pellets. The number of marine debris-related entanglement deaths of endangered and threatened seals, sea turtles, and seabirds continues to grow. For example, entanglement in debris is major cause of death for Hawaiian monk seals (pop. estimate: <1,200).

To combat marine debris, the Congress responded in a bipartisan manner and enacted the Marine Debris Research, Prevention, and Reduction Act in 2006 which established national efforts to identify, assess, reduce, and prevent marine debris and its effects on the marine environment. The National Oceanic and Atmospheric Administration (NOAA) and the USCG work together to undertake these activities. The USCG's marine debris efforts fall under its marine environmental protection mission, 1 of 11 missions.

The USCG plays a crucial role combating marine debris by monitoring and enforcing compliance with MARPOL Annex V and the Act to Prevent Pollution from Ships. Under this authority, the USCG monitors discharge of waste from ships and oversees port waste receptor facilities. In addition, the USCG provides critical support and leadership for a variety of anti-marine debris activities. For example, the USCG has partnered primarily with NOAA, starting in 1998, to remove an estimated 667 metric tons (mt) of marine debris (mostly derelict fishing gear) from the Northwestern Hawaiian Islands where marine debris kills endangered Hawaiian monk seals and seabirds. In 2009, NOAA and the USCG removed an estimated 68 mt of debris. With the recent earthquake in Japan, an influx of debris has been introduced to the marine environment. University of Hawaii scientists believe that we will start to see the impacts of this debris in the Hawaiian Islands in about 18 months.

The Marine Debris Act authorizes \$10 million annually for NOAA's Marine Debris Program and \$2 million for the USCG's marine debris efforts. NOAA has been level funded at \$4 million since 2008, but the USCG has never requested nor received any direct funding for its marine debris efforts.

As the Nation continues to deal with economic challenges, MCBI recognizes that allocating new funds for projects may be difficult. However, the economic costs of marine debris on our marine resources, tourism, human health and safety far outweigh the cost of marine debris removal activities. Therefore, we encourage the subcommittee to minimally reinstate the USGS funding levels to fiscal year 2010 enacted levels to maintain the service's operating capabilities, and include an additional \$2 million for the USCG to meet its responsibilities under the Marine Debris Act. Adequate and sustained funding is needed to maintain and enhance the ability of the USCG to support current removal projects, develop best management practices, reduce derelict fishing gear, and conduct education and outreach measures.

In summary, MCBI respectfully requests that the subcommittee augment the USCG funding to support the critical role it plays in fighting marine debris.

Sincerely,

WILLIAM CHANDLER, VICE PRESIDENT FOR GOVERNMENT AFFAIRS,
Marine Conservation Biology Institute.

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION FOR PUBLIC HEALTH
STATISTICS AND INFORMATION SYSTEMS

The National Association for Public Health Statistics and Information Systems (NAPHSIS) welcomes the opportunity to provide this written statement for the public record as the Homeland Security Appropriations Subcommittee prepares its fiscal year 2012 appropriations legislation.¹ In 2005, Congress passed the REAL ID Act in response to the 9/11 Commission's recommendations that the Federal Government ensure a person "is who they claim to be" when applying for an official ID. Yet, 6 years later implementation remains stalled due to strained State budgets and a lack of Federal investment. As the nonprofit, national association for the 57 vital records offices that are critical partners in the security of our homeland, NAPHSIS

¹ NAPHSIS represents the 57 vital records jurisdictions that collect, process, and issue birth and death records in the United States and its territories, including the 50 States, New York City, the District of Columbia, and the five territories. NAPHSIS coordinates and enhances the activities of the vital records jurisdictions by developing standards, promoting consistent policies, working with Federal partners, and providing technical assistance.

recommends you provide the Federal Emergency Management Agency (FEMA) \$100 million over a period of 3–5 years to modernize vital records in support of REAL ID through grants to States.

PREVENTING FRAUD, IDENTITY THEFT, AND TERRORISM THROUGH VERIFICATION

Prior to the terrorist attacks on the United States on September 11, 2001, all but one of the terrorist hijackers acquired some form of identification document, some by fraud, and used these forms of identification to assist them in boarding commercial flights, renting cars, and other necessary activities leading up to the attacks. In its final report, the 9/11 Commission recommended implementing more secure sources of identification, stating that “Federal Government should set standards for the issuance of birth certificates and sources of identification, such as driver’s licenses. Fraud in identification documents is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.”²

Heeding the recommendations of the 9/11 Commission, Congress enacted the REAL ID Act in May 2005. Among other provisions, the REAL ID Act and its corresponding regulations (6 CFR part 37) require that applicants for a driver’s license present their birth certificate to the motor vehicle agency to validate their U.S. citizenship and their date of birth, and that birth certificates must be verified by the State. Section 37.13 of the identification standards regulations recommends that States through their departments of motor vehicles (DMV) should use the Electronic Verification of Vital Events (EVVE) system, operated by NAPHSIS, to verify birth certificates presented by applicants.

EVVE is an online system operated by NAPHSIS that verifies birth certificate information. It provides authorized users at participating agencies with a single interface to quickly, reliably, and securely validate birth and death information at any jurisdiction in the country. In so doing, no personal information is divulged to the person verifying information—EVVE simply relays a message that there was or was not a match with the birth and death records maintained by the State, city, or territory.

NEED FOR VERIFICATION PERSISTS

Many Federal and State agencies rely on birth certificates for proof of age, proof of citizenship, identification for employment purposes, to issue benefits or other documents (e.g. driver’s licenses, Social Security cards, and passports), and to assist in determining eligibility for public programs or benefits (e.g., Medicaid). Unfortunately, there are cases where individuals have obtained birth certificates of deceased persons and assumed their identity, created fraudulent birth certificates, and altered the information on a birth certificate, as documented in a Department of Health and Human Services Office of Inspector General Report of 2000.³

In 2009 and 2010, the Government Accountability Office (GAO) documented several cases in which investigators created fraudulent birth certificates and were able to obtain passports based upon the fraudulent records because the passport office did not verify the birth certificate information.⁴ Just recently, the Federal Bureau of Investigation arrested Khalid Ali-M Aldawsari for “attempted use of a weapon of mass destruction”. When the FBI searched Aldawsari’s apartment, agents discovered that Aldawsari had plans to obtain a forged U.S. birth certificate and obtain multiple drivers’ licenses for the purpose of renting several different cars to carry out his attacks. Aldawsari recognized that birth certificates can be used to obtain multiple identification documents such as passports and driver’s licenses.

Passport fraud prevention managers commenced using the EVVE system in March 2009 for birth certificate verifications. In their first 6 weeks of use, there were two instances where the fraud prevention managers used the EVVE system to electronically verify the birth certificates, and EVVE returned a “no match”. Upon further follow up with the vital records offices that “issued” the birth certificates it was determined that indeed the birth certificates presented with those passport applications were fraudulent. Based on these and other successes, NAPHSIS is work-

²The 9/11 Commission Report, Final Report of the National Commission on Terrorist Attacks upon the United States, July 2004, p. 390.

³Department of Health and Human Services, Office of Inspector General, Birth Certificate Fraud, Sept. 2009 (OEI-07-99-00570).

⁴Government Accountability Office, Department of State: Undercover Tests Reveal Significant Vulnerabilities in State’s Passport Issuance Process, Mar. 2009 (GAO-09-447) and State Department: Undercover Tests Show Passport Issuance Process Remains Vulnerable to Fraud, July 2010 (GAO-10-922T).

ing with the Department of State to integrate EVVE into the standard passport adjudication process.

STATES NEED FEDERAL SUPPORT TO IMPLEMENT REAL ID

EVVE is now installed in 30 vital records jurisdictions and is used by select State DMVs and Medicaid Offices, the Social Security Administration, the Office of Personnel Management, and the Department of State fraud prevention managers in select jurisdictions. Users of EVVE are enthusiastic about the system, citing its capacity for:

- Providing protection against the potential use of birth certificates for fraudulent activities.
- Improving customer service by facilitating rapid access to accurate and verifiable vital record data in real-time.
- Safeguarding the confidentiality of birth and death data.
- Offering a secure mechanism for communication between agencies and vital records offices via the Internet.
- Easily integrating with current legacy systems that the Federal or State agencies may already be using, and for serving as a user-friendly interface for agencies that seek a stand-alone query system.

NAPHSIS has completed upgrades to the EVVE system to meet the REAL ID requirements and is working to install EVVE in the remaining 27 jurisdictions before the now extended, REAL ID deadline. NAPHSIS has also procured a data analysis and quality control tool that all jurisdictions can utilize to analyze their EVVE database for anomalies, inconsistencies, accuracy, and completeness. This tool and the analysis of EVVE data has been completed in 17 jurisdictions to-date.

Despite EVVE's security, speed, and ease of use, the system is only as good as the underlying data infrastructure upon which it relies. Digitizing paper-based birth and death records, then cleaning and linking those records, will provide for secure, reliable, real-time identity verification using EVVE. Specifically,

- The majority of the 57 vital records jurisdictions have electronic birth records that extend back more than 7 decades. To recognize EVVE's full potential to verify birth certificates, 100 percent of jurisdictions should have their records in electronic form.
- There are cases where an individual has assumed a false identity by obtaining a birth certificate of a person who has died. Therefore, it is also important that all jurisdictions' death and birth records be linked to flag individuals who are deceased and identify fraudulent birth documentation.

RECOMMENDED ACTION: INVEST IN INFRASTRUCTURE TO FACILITATE ID VERIFICATION

The jurisdictions' efforts to digitize, clean, and link vital records have been hindered by State budget shortfalls. In short, the jurisdictions need the Federal Government's help to complete building a secure data infrastructure and support identity verification required by REAL ID. Under the current authority established through REAL ID, we ask that Congress provide \$100 million to FEMA to support a new grants-to-States program for the purpose of modernizing vital records. Specifically, these funds would be used by vital records jurisdictions to digitize their birth records back to 1945, to clean these data to support electronic queries, and link birth and death records. We recommend the funding be appropriated over time according to one of two schedules:

- Option 1.*—\$33 million per year over 3 years. This option would provide roughly \$580,000 in fiscal year 2012 to each vital records jurisdiction, on average.
- Option 2.*—\$20 million per year over 5 years, providing roughly \$350,000 in fiscal year 2012 to each vital records jurisdiction, on average. The vital records modernization would progress more slowly than under option 1, but the funding would nevertheless significantly enhance the ability of States and territories to support the goals of REAL ID.

The terrorist attack the FBI thwarted in the apprehension of Khalid Ali-M Aldawsari brings to mind the September 11 tragedy, and reminds us of the need to secure official forms of identification. We feel strongly that an investment of \$100 million is a small price to pay to strengthen Americans' safety and security by accurately, efficiently, and securely verifying birth data on the 245 million driver's licenses issued annually. Six years after REAL ID's enactment, isn't it time to implement the 9/11 Commission's recommendations and invest in the goals of REAL ID and identity verification?

NAPHSIS appreciates the opportunity to submit this statement for the record and looks forward to working with the subcommittee.

PREPARED STATEMENT OF THE NATIONAL EMERGENCY MANAGEMENT ASSOCIATION

INTRODUCTION

Thank you for the opportunity to submit this statement for the record regarding the fiscal year 2012 budget for the Department of Homeland Security (DHS). As president of the National Emergency Management Association (NEMA) I represent the emergency management directors of all 50 States, territories, and the District of Columbia. Members of NEMA are responsible to the Governors for myriad responsibilities including emergency preparedness, homeland security, mitigation, response, and recovery activities for natural or terrorism-related disasters.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

The highest priority for NEMA within the President's request is funding for the Emergency Management Performance Grants (EMPG). EMPG assists State and local governments in managing a variety of disasters and hazards providing the only source of Federal assistance to State and local government for all-hazards emergency management capacity building. Grantees utilize EMPG funds for personnel, planning, training, exercises, warning systems, public outreach, and other essential functions in establishing effective preparedness, mitigation, response, and recovery. This program is of considerable economic value to the Federal Government as all Federal funds are matched 50-50 by State and local governments. Such a matching requirement increases accountability and supplements the impact of valuable Federal dollars.

This year, NEMA fully supports the President's requested funding level and House Appropriations Committee recommendation of \$350 million for EMPG. We appreciate the resource constrained environment, but when compared to other grant programs, the 50-50 match allows EMPG to stand alone as a worthwhile investment of Federal funds. In many ways, EMPG offers a cost-savings by allowing States to manage disasters which would otherwise need to be addressed by the Federal Government.

NEMA, in conjunction with the International Association of Emergency Managers, has taken the most significant step forward to-date in attempting to measure the effectiveness of EMPG. In March 2011, the two associations combined to release Emergency Management Performance Grants: Providing Returns on a Nation's Investment. The report measures the effectiveness of funding provided EMPG in fiscal year 2010. It also ties individual State and local efforts into the far larger picture of overall preparedness by demonstrating how a truly national emergency management system is developed and supported.

A copy of the report is available online at: http://www.nemaweb.org/index.php?option=com_pollydoc&format=raw&id=2583&view=doc

HOMELAND SECURITY GRANT PROGRAM

NEMA members remain alarmed at the significant cuts proposed by the House Appropriations Committee to the State Homeland Security Grant Program (SHSGP). This program provides funds to build capabilities at the State and local levels and to implement the goals and objectives included in State homeland security strategies and initiatives in the State Preparedness Report. Funding amounts must remain at pre-consolidation levels, and these grants must be used in support of building an all-hazard capability. Furthermore, providing sole discretion to the Secretary of Homeland Security allows far too many opportunities for "politics" to be played with these critical grant programs. While in theory, combining grant programs and consolidation may appear sound; in practice such efforts remain impractical.

We urge the subcommittee to provide States greater flexibility in use of homeland security funds for all-hazards activities. Such flexibility allows the grant funding to be utilized by each State according to need, existing resources, and capabilities. This flexibility will serve to increase preparedness for all hazards including terrorism. The effort to enhance and build the national emergency response system is a national effort and Federal resources should continue at the current level to maintain effectiveness. As the subcommittee considers funding for the SHSGP, NEMA urges sustained appropriations levels on a multi-year basis to allow for long-range planning, maintenance, implementation, and measurement.

PRE-DISASTER MITIGATION

The Administration's request of \$85 million for the Pre-disaster Mitigation Grant (PDM) Program reflects the amount normally available for programmatic activities

after congressionally directed funding has been allocated out of a \$100 million appropriation. Since fiscal year 2002, PDM has been a competitively awarded grant program. The PDM program continues to be over-subscribed as more projects become eligible than can be funded in any given fiscal year at present funding levels.

NEMA supports the President's request of \$85 million provided the ban on congressionally directed funding from the recent reauthorization language is followed. Should targeted funding continue to be a part of this program, we would request appropriate funds above the \$85 million to off-set the programmatic impacts.

EMERGENCY OPERATIONS CENTERS

There remains a shortfall in the ability for States to build, retrofit, and upgrade primary and alternate emergency operations centers (EOC). According to the 2010 NEMA Biennial Survey, an estimated \$398 million in requirements exist to bridge the shortfall. The current EOC Grant Program is intended to improve emergency management and preparedness capabilities by supporting flexible, sustainable, secure, and interoperable EOCs with a focus on addressing identified deficiencies and needs. Fully capable emergency operations facilities at the State and local levels stand as an essential element of a comprehensive national emergency management system and are necessary to ensure continuity of operations and continuity of government in major disasters caused by any hazard. The continued viability of a strong and robust EOC Grant Program remains in the Nation's best interest.

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Finally, I wish to address funding for the Emergency Management Assistance Compact (EMAC). When States and the U.S. territories joined together and the Congress ratified EMAC (Public Law 104-321) in 1996, it created a legal and procedural mechanism whereby emergency response resources such as urban search and rescue teams can quickly move throughout the country to meet disaster needs. All 50 States, the District of Columbia, and three territories are members of EMAC and have committed their emergency resources in helping neighboring States and territories.

EMAC has grown significantly in size, volume, and the type of resources it provides over the years. Since 2004, the volume and types of resources requested under EMAC has grown considerably. For example, 26 emergency management personnel responded to the September 11, 2001, terrorist attacks. Conversely, more than 66,000 personnel from a variety of disciplines deployed to the gulf coast in response to Hurricanes Katrina and Rita and 12,279 personnel to Texas and Louisiana during Hurricanes Gustav and Ike. The 2009 spring flooding in North Dakota and Minnesota resulted in States deploying equipment, sandbags, and 1,029 personnel to North Dakota. In all, 727 National Guard personnel and 302 civilians were sent to assist via the compact.

The capabilities of EMAC remain sustained by the efforts of all the States and would be bolstered by direct support of EMAC. While EMAC currently receives FEMA grant funding, fulfilling NEMA's request for a \$2 million line item appropriation would codify the program for use in future disasters. In the past, NEMA has advocated for \$4 million of 2-year funding, but pursuant to an agreement with FEMA programmatic personnel, our position is now one of single-year funding of \$2 million. Please note these funds do not represent an earmark as they provide numerous benefits directly to the States to build and maintain a national mutual aid system.

As the opportunity is afforded, EMAC intends to develop, maintain, and exercise State and regional mutual aid capabilities, train State and local emergency response personnel who may be deployed through EMAC, support the development of specialized emergency response capabilities among the regions, and ensure EMAC remains a viable resource for the States now and in the future. In my opinion, \$2 million in Federal funds stands as a minimal investment for maintaining a proven national emergency response capacity that day-to-day is equipped, trained, and ready to provide critical disaster response resources and support between States. All members of EMAC rely on this asset as a critical tool in their response and recovery arsenal.

CONCLUSION

Again, I appreciate the opportunity to address these issues critical to the emergency management community. This subcommittee regularly affirms support for ensuring preparedness for our Nation's vulnerabilities against all-hazards with additional investments in EMPG and EOCs. As you develop the fiscal year 2012 budget for the Department of Homeland Security, we encourage you to utilize our membership as a resource and continue efforts to build a strong and robust emergency man-

agement baseline in our country. Together, we will carry-on the initiatives so thoughtfully developed by this subcommittee over the years. I thank you for the opportunity to testify on behalf of NEMA and appreciate your continued partnership.

PREPARED STATEMENT OF THE NATIONAL TREASURY EMPLOYEES UNION

Chairman Landrieu, Ranking Member Coats, distinguished members of the subcommittee, thank you for the opportunity to provide this testimony. As president of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 24,000 Customs and Border Protection (CBP) officers, agriculture specialists, and trade enforcement and compliance specialists who are stationed at 331 land, sea, and air ports of entry across the United States.

Customs and Border Protection entry specialists, import specialists, paralegal specialists that determines fines, penalties and forfeitures, customs auditors and attorneys and other trade compliance personnel are the frontline of defense against illegal imports and contraband. These employees enforce more than 400 U.S. trade and tariff laws and regulations in order to ensure a fair and competitive trade environment pursuant to existing international agreements and treaties, as well as stemming the flow of illegal imports, such as pirated intellectual property and counterfeit goods, and contraband such as child pornography, illegal arms, weapons of mass destruction, and laundered money. CBP is also a revenue collection agency—collecting \$32 billion in duties and fees on imports valued at more than \$2 trillion in 2007.

Along with facilitating legitimate trade and enforcing trade and security laws, CBP trade personnel are responsible for stopping illegal transshipments, goods with falsified country of origin, goods that are misclassified and for collecting antidumping and countervailing duties. According to a GAO report on Customs Revenue Functions (GAO-07-529), CBP collected nearly \$30 billion customs duties in fiscal year 2006, but did not collect approximately \$150 million in antidumping duties alone in 2006. In addition, it is estimated that \$500 million in antidumping duties were left uncollected between 2001 and 2006 (See GAO-07-529, page 23 and pages 29-30.)

TRADE ENFORCEMENT AND COMPLIANCE STAFFING

When CBP was created, it was given a dual mission of not only safeguarding our Nation's borders and ports from terrorist attacks, but also the mission of regulating and facilitating international trade. CBP is responsible for collecting import duties and ensuring importers fully comply with applicable laws, regulations, quotas, Free Trade Agreement requirements, and intellectual property provisions.

Customs revenues are the second largest source of Federal revenues collected by the U.S. Government after tax revenues. This revenue funds other Federal priority programs. NTEU is deeply concerned with the lack of resources, both in dollars and manpower, devoted to CBP's trade functions. Lack of sufficient focus and resources costs the U.S. Treasury in terms of customs duties and revenue loss and costs American companies in terms of lost business to unlawful imports.

Because of continuing staffing shortages, inequitable compensation, and lack of mission focus, experienced CBP commercial operations professionals at all levels, who long have made the system work, are leaving or have left the agency. Twenty-five percent of CBP import specialists will retire or be eligible to retire within the next few years.

When the Congress created the Department of Homeland Security, the House Ways and Means and Senate Finance Committees included section 412(b) in the Homeland Security Act (HSA) of 2002 (Public Law 107-296). This section mandates that "the Secretary [of Homeland Security] may not consolidate, discontinue, or diminish those functions . . . performed by the United States Customs Service . . . on or after the effective date of this [a]ct, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions".

In October 2006, the Congress enacted the Security and Accountability For Every (SAFE) Port Act (Public Law 109-347). Section 401(b)(4) of the SAFE Port Act directed the DHS Secretary to ensure that requirements of section 412(b) of the HSA (6 U.S.C. 212(b)) are fully satisfied.

CBP satisfied this statutory requirement by freezing the number of many maintenance of revenue function positions at the level in effect on the date of creation of the agency in March 2003. As you know, CBP was created by the merger of the former U.S. Customs Service, the Immigration and Naturalization Service, and the

Animal, Plant, Health Inspection Service. In March 2003, the number of commercial operations employees at the former U.S. Customs Service was significantly less than prior to 9/11 and significantly less than the need as stated in the U.S. Customs Service Optimal Staffing Levels Fiscal Years 2000–2002 (February 25, 2000), known as the resource allocation model (RAM).

For example, according to the U.S. Customs RAM, in fiscal year 1998, the optimal staffing level for import specialists at the U.S. Customs Service was 1,249, and based on workload in fiscal year 2002, the optimal staffing level for import specialists was 1,489 (pages 2, A–1 and M–1 through M–12).

In actuality, in March 2003 when CBP stood up, there were only 984 import specialists on-board. That is 265 import specialist positions less than the 1998 base total, and 505 less than the fiscal year 2002 import specialists optimal staffing level. A significant reduction in the number of revenue maintenance function positions had occurred at the U.S. Customs Service between 9/11 and March 2003 when CBP stood up. Section 412(b) of the HSA reflected the Congress's concern regarding this diminishment in the number of customs revenue function positions versus customs security function positions at the U.S. Customs Service and fear that it would continue and be exacerbated by its merger into CBP.

Even though CBP complied with the letter of section 401(b)(4) of the SAFE Port Act, it appears to NTEU that CBP views the “March fiscal year 2003 Staff On-Board” numbers of revenue maintenance function positions (see appendix I), including such vital trade facilitation and enforcement positions as entry and import specialists, as a ceiling rather than a floor.

CBP'S RESOURCE ALLOCATION/OPTIMIZATION MODEL

CBP's adherence to the March 2003 import specialist employment number as a ceiling has become evident in the most recent iteration of the SAFE Port Act mandated RAM. Section 403 of the SAFE Port Act required CBP to complete a RAM by June 2007, and every 2 years thereafter, to determine optimal staffing for commercial and revenue functions. It directed that the model must comply with the requirements of section 412(b) of the Homeland Security Act (HSA) of 2002 and required the CBP Commissioner, not later than September 30, 2007, to ensure that the requirements of 412(b) of the HSA were fully satisfied. The CBP positions covered by section 412(b) include entry specialists, import specialists, drawback specialists, national import specialists, fines and penalty specialists, attorneys at the Office of Regulations and Rulings, customs auditors, international trade specialists, and financial systems specialists.

The rationale for this provision arose from a Government Accountability Office (GAO) report (GAO–05–663) that stated, “as of June 2003, CBP has not increased staffing levels [at the POEs]” and “CBP does not systematically assess the number of staff required to accomplish its mission at ports and airports nationwide . . .” Further, GAO observed that “not identifying optimal staffing levels prevents CBP from performing workforce gap analyses, which could be used to justify budget and staffing requests.”

The former U.S. Customs Service's last internal review of staffing for fiscal years 2000–2002, dated February 25, 2000, shows that the U.S. Customs Service needed more than 14,776 new hires just to fulfill its basic mission (U.S. Customs RAM, page 2 and A–1)—and that was before 9/11. Since then, the Department of Homeland Security was created and the U.S. Customs Service was merged with the Immigration and Nationalization Service and parts of the Agriculture Plant Health Inspection Service to create CBP. CBP was given an expanded mission of providing for both the first line of defense against domestic terrorism and making sure trade laws are enforced and trade revenue collected.

The first section 403 RAM, dated July 6, 2007, stated that “CBP has over 8,200 employees that are involved in commercial trade operations. The model suggests that to carry out these commercial operations and to adequately staff the needs for priority trade functions, the optimal level of staff in fiscal year 2008 would be over 10,000 employees” (page 12 of CBP Report to Congress on Trade Resource Allocation Model). According to the 2007 RAM, 1,100 import specialists would be needed for optimal performance in fiscal year 2010, an increase of 116 more than the HSA Floor (see page 16).

In 2009, CBP renamed the section 403 resource allocation model (RAM) (the SAFE Port Act mandated Report to Congress). It is now called the resource optimization model (ROM). The fiscal year 2009 ROM reduces the fiscal year 2010 optimal staffing levels for some revenue maintenance function positions, specifically the entry and import specialist positions (see appendix II). For example, the fiscal year 2009 ROM puts the number of import specialist positions needed in fiscal year 2010

at the HSA floor number of 984, rather than 1,100 as stated in the fiscal year 2007 RAM.

IMPORT SPECIALIST ALLOCATION MODEL

In 2009, CBP Office of Field Operations updated its import specialist allocation model (ISAM), “a decision support tool in the allocation of resources”. The number of import specialists allocated for staffing the ports of entry, however, was determined to be 984 prior to the compiling of the ISAM. The allocation model was done with the staffing number outcome already pre-determined.

In the ISAM, CBP states that the Office of Field Operations “manages a set allocation of 984 for import specialists, which is the minimum staffing requirement set forth by the Homeland Security Act of 2002.” Since the number of import specialist positions is frozen at 984 nationwide, CBP’s ISAM proposed a net reduction of 52 import specialist positions (from 179 to 127) at New York City area ports, shifting those positions to other ports (see appendix III) in order to handle current workload. CBP plans to eliminate positions at the ports with the highest number of import specialists—primarily the New York City region—to fill needs in other ports. NTEU is concerned that the ISAM is a zero-sum model that does not address actual staffing needs.

Ports specialize in different areas of trade compliance and have different needs depending on the operation—air, sea, or land ports. Larger ports handle all areas of trade compliance whereas smaller ports might see a large amount of one type of commodity or only deal with a small range of trade compliance issues.

Because of these differences between the ports of entry, rather than using a one-size-fits-all metric to determine allocation of import specialists, the data elements and factors that CBP weighs in determining allocation of import specialists should be different for each port depending on what type of operation it is and what the prevalent trade issues are at that port. Then, staffing should be decided using a work-to-staff ratio based on a formula and weighting of the elements for that port specifically.

“Informed compliance” is not given any weight at all when determining import specialist staffing needs at individual ports. Authorized by the Customs Modernization Act (Mod act), “informed compliance” plays a major role in CBP’s trade enforcement and compliance operations. Two new concepts that emerged from the Mod act are “informed compliance” and “shared responsibility,” which are premised on the idea that in order to maximize voluntary compliance with trade laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations.

Accordingly, the Mod act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s rights and responsibilities under customs regulations and related laws. Both the trade and CBP share responsibility for carrying out these requirements. For example, under section 484 of the Tariff act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify, and determine the value of imported merchandise and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record’s failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

It is the responsibility of the importers of record to make sure that what they submit to CBP is correct and it is the job of the import specialist, through informed compliance, to verify that what is being submitted is correct. Therefore, when considering import specialist staffing allocations at each port, the time the import specialist spends meeting with and educating the importing community should be part of the equation. NTEU believes that if done in this manner, CBP’s import specialist staffing allocations would require increased import specialist staffing levels nationally.

TARIFF SHARING

Last year, in response to an import specialists staffing shortage and pursuant to the 2009 ISAM, CBP is implementing at certain ports a tariff sharing scheme. For example, because CBP has frozen at 984 nationwide the total number of import specialist positions, CBP is in the process of reducing by 52 positions (from 179 to 127) the number of import specialists at the New York City-area ports (see appendix III) and shifting those positions to other ports. To address the loss of 52 import specialist positions at New York City area ports of entry (New York-Newark gains 3

import specialist positions, but JFK loses 55 import specialist positions), CBP has implemented tariff sharing between the ports of New York and Newark and JFK airport. Until last year, each port (Newark and JFK) processed all types of entries and all types of commodities via the harmonized tariff schedule (HTS). In other words, each port had full tariff coverage.

Because of this reduction in trade personnel, each port has now been assigned only parts of the HTS, not the entire HTS, and each port only processes only one-half the commodities entering its port. Tariff sharing presents a number of operational problems. Because the HTS will be split, each port will have one-half the number of commodities teams (staffed by import specialists) than they currently have. Certain kinds of merchandise will continue to be unloaded at the port of Newark, but the only commodity team that is trained to process it will be at JFK. And other merchandise will continue to be unloaded at JFK, but the only commodity team trained to process it will be in Newark. CBP has directed import specialists to, in these cases where there is no longer the appropriate commodity team present at the port to do a physical examination, take digital photos of the merchandise and email the photos to the other port. A digital photo cannot determine lead levels in toys or thread count in textiles. This is a short-sighted solution to an import specialist staffing shortage that will affect taxpayers, trade compliant importers, and the Federal treasury.

Rather than hire additional import specialists at ports of entry where they are needed, CBP instead is shortchanging the New York City trade community. It is clear that the fiscal year 2009 ROM, that states that only 984 import specialists are needed nationwide, does not adequately reflect the optimal staffing levels for import specialists as evidenced by the need to implement a tariff sharing scheme at New York City region ports of entry.

TARIFF SHARING AND ANTIDUMPING ORDERS

Tariff sharing significantly affects import specialists' timely disposition of antidumping orders. The problems that arise from tariff sharing centers around the movement of entries between JFK and Newark. When liquidation orders are published in the Federal Register, CBP has 6 months to liquidate and process those entries. There is almost always a certain amount of lag time between when the liquidation orders are published in the Federal Register and when the import specialists on the commodity team associated with that merchandise are actually made aware of the liquidation orders. In actuality, the import specialist rarely has the full 6-month period to liquidate and process these order.

Prior to the Federal Register posting, the entries are kept in files with the commodity team that handles the merchandise. For example, under tariff sharing, the entry paperwork of commodities that are received at JFK, but are inspected by a commodity team at Newark, is supposed to be transferred to Newark and not filed at JFK. In many cases, however, when the liquidation order is issued, the commodity team in Newark goes through their files of antidumping entries. Frequently, there are JFK entries missing that were lost in transportation. At that point, Newark import specialists contact JFK to see if they can find the lost files. If the lost files can't be found, the Newark import specialist makes an inquiry to the Records Department to try and to retrieve these entries, which takes time.

Pressed for time, import specialists then call the broker to ask the broker to reconstruct the entries and send these reconstructed entries to the commodity team. The commodity team then reviews these reconstructed entries to make sure that the entry type codes are the correct type for antidumping entries and that the entries were put on hold and not previously liquidated. If this happens, CBP could lose its ability to liquidate at the antidumping rates that are applied via the liquidation order and the extra duties cannot be collected. Recently in Newark, CBP lost the extra duty on 17 entries due to this very scenario. These liquidation orders encompass hundreds of entries. Conversely, JFK has the same problem on their end when they have antidumping entries to deal with. This same problem with disposition of antidumping orders is occurring at the ports of Detroit and Port Huron where CBP has also implemented tariff sharing.

Under tariff sharing, revenue from antidumping orders is being lost. Again, it is clear that the fiscal year 2009 ROM, that states that only 984 import specialists are needed nationwide, does not adequately reflect the optimal staffing levels for import specialists that process antidumping orders.

Finally, NTEU has just learned that because the import specialists at the ports of New York and New Jersey are overwhelmed with work due to the loss of the 52 trade positions (that has resulted CBP implementing tariff sharing at these ports), CBP has begun assigning audits to import specialists at other ports, even though

the majority of the merchandise and entries associated with the importer being audited come into the ports of New York and New Jersey.

FISCAL YEAR 2012 CBP BUDGET REQUEST

Several years ago, pursuant to the provisions of the SAFE Port Act, there was a small increase in the number of CBP trade enforcement and compliance personnel. There was no increase in funding for CBP trade operations staffing in the fiscal year 2010 DHS appropriations bill and again, the fiscal year 2011 continuing resolution has no increase in full-time equivalents (FTEs) for CBP trade operations personnel.

In effect, there has been a CBP trade staffing freeze at March 2003 levels and, as a result, CBP's revenue function has suffered. The fiscal year 2012 budget requests funding for CBP's enforcement program to "prevent trade in counterfeit and pirated goods, and enforce exclusion orders on patent-infringing and other intellectual property rights violative goods." This request, however, includes no increase in CBP trade operations staff at the POEs to implement this trade enforcement program. NTEU urges the subcommittee to appropriate funding to hire additional trade enforcement and compliance personnel, including import specialists, at the POEs to enhance trade revenue collection.

CBP CAREER LADDER PAY INCREASE

NTEU commends the Department for the recent increase in journeyman pay for CBP officers and agriculture specialists. Unfortunately, many deserving CBP trade and security positions were left out of this pay increase, which has significantly damaged morale. The 23,450 armed, uniformed CBP officers and uniformed CBP agriculture specialist will be eligible for the increase, but the approximately 2,000 non-uniformed CBP commercial operations employees will not.

NTEU strongly supports extending this same career ladder increase, from GS-11 to GS-12, to additional CBP positions, including CBP entry, import and paralegal specialists and CBP-seized property specialists. The journeyman pay level for the CBP technicians who perform important commercial trade and administrative duties should also be increased from GS-7 to GS-9. These upgrades are long overdue and would show CBP trade personnel that the Congress recognizes the high level of expertise that these employees possess.

STUDY OF DEDICATED FUNDING

In 2007, the total value of all imports into the United States was more than \$2 trillion. Processing these imports meant handling 22 million entry summaries by CBP entry specialists, import specialists, and support staff. In addition to its security and trade missions, CBP works with more than 40 Federal agencies to help enforce a wide range of laws from consumer product and food safety, to environmental protection. It is clear that additional CBP commercial operations staffing and training funds are needed. Multiple proposals to increase customs fees are currently being promoted to support a great variety of proposed programs. Security needs, along with important national trade policy goals, require additional financial resources. NTEU encourages the subcommittee to request a study of the setting, collection, and utilization of these customs and user fees. This study should determine the relationship between current fees and monies allocated for CBP services and assess the need for additional fees.

CONCLUSION

Customs revenues are the second largest source of Federal revenues that are collected by the U.S. Government. The Congress depends on this revenue source to fund priority programs. The subcommittee should be concerned as to how much CBP trade enforcement staffing shortages cost in terms of revenue loss to the U.S. Treasury.

And most importantly, for the purposes of this hearing, CBP trade personnel are responsible for stopping illegal transshipments, goods with falsified country of origin, goods that are misclassified and for collecting antidumping and countervailing duties. The ongoing freeze in the number of CBP trade compliance and enforcement staff undermines this mission.

In order to prevent customs fraud and duty evasion, NTEU urges the Congress to increase the number of trade compliance and enforcement staff responsible for enforcing antidumping and countervailing duty orders issued under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) and preventing the importation of merchandise in a manner that evades that antidumping and countervailing duty orders

issued under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.)—a responsibility that falls solely on the shoulders of CBP import specialists.

NTEU urges the subcommittee to fund the hiring of additional needed CBP trade staff to enforce the more than 400 U.S. trade and tariff laws and regulations for which they are responsible, to end the current practice of tariff sharing at several major ports of entry, and to ensure full tariff coverage at all major trade ports of entries listed on the ISAM (appendix III.)

The more than 24,000 CBP employees represented by the NTEU are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs, and our economy safe from illegal trade.

Thank you for the opportunity to submit this testimony on their behalf.

PREPARED STATEMENT OF THE U.S. COUNCIL OF THE INTERNATIONAL ASSOCIATION OF
EMERGENCY MANAGERS

Chairman Landrieu, Ranking Member Coats, and distinguished members of the subcommittee, I am Eddie Hicks, the director of emergency management for Morgan County, Alabama. I serve as the president of the U.S. Council of the International Association of Emergency Managers (IAEM-USA) and am providing, on their behalf, this statement on critical budget and policy issues for the Federal Emergency Management Agency (FEMA). I have been a local government emergency manager for 31 years. I also served three terms as president of the Alabama Association of Emergency Managers. We support funding the Emergency Management Performance Grant at \$350 million, the Emergency Management Institute at \$11.9 million, and predisaster mitigation at \$84.9 million in the budget for FEMA.

IAEM is our Nation's largest association of emergency management professionals, with 5,000 members including emergency managers at the State and local government levels, tribal nations, the military, colleges and universities, private business, and the nonprofit sector. Most of our members are U.S. city and county emergency managers who perform the crucial function of coordinating and integrating the efforts at the local level to prepare for, mitigate the effects of, respond to, and recover from all types of disasters including terrorist attacks. We deeply appreciate the support this subcommittee has provided to the emergency management community over the past few years, particularly your support for the Emergency Management Performance Grant Program (EMPG) as well as strengthening FEMA.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

We respectfully urge that the subcommittee approve the President's request of \$350 million for EMPG, but reject combining it with other accounts. EMPG is fundamentally different than the post-September 11, 2001 Homeland Security grants because of its 50-percent Federal and 50-percent State- and local-matching requirements and established performance measures. It also pre-dates the Homeland Security grants by over 50 years. We also request that language be included continuing to make it clear the funding is for all hazards and can be used for personnel.

The program is authorized at \$950 million for fiscal year 2012 in Public Law 110-53.

EMPG which has been called "the backbone of the Nation's emergency management system" in an Appropriations Conference Report constitutes the only source of direct Federal funding for State and local governments to provide basic emergency coordination and planning capabilities for all hazards including those related to homeland security. The program supports State and local initiatives for planning, training, exercise, mitigation, public education, as well as response and recovery coordination during actual events. All disasters start and end at the local level, which emphasizes the importance of building this capacity at the local level. Funding from EMPG frequently makes a difference as to whether or not a qualified person is present to perform these duties in a local jurisdiction.

The legislation creating EMPG is purposefully broad to allow jurisdictions to focus their attention on customizing their capabilities. Therefore it is important that FEMA guidance not try to make one size fit all but is written so as to allow maximum flexibility in meeting the specific capability requirements within each local jurisdiction.

Funding from EMPG has always been important to local government emergency management offices, and is even more vital during the current economic downturn. The programs of many of our local emergency managers have faced or will be facing budget reductions resulting in reduced staffing, reduced training, reduced public outreach, and reduced support to volunteers. Some elected officials are considering reducing their commitment from a full-time emergency manager to a part-time

emergency manager, or moving the emergency management functions as added duties to other departments. This has the effect of actually reducing emergency management services—and potentially preparedness—in many areas of the country at a time when disasters and emergencies threaten more people and property than ever before. Simply receiving the entire 50-percent Federal match of their contributions would make a big difference in maintaining their programs. It should be noted that many local emergency management programs have historically provided significantly more than the 50-percent match that is required for their EMPG allocations.

EMERGENCY MANAGEMENT INSTITUTE

We respectfully urge the subcommittee to increase the funding for the Emergency Management Institute (EMI) to \$11.9 million. The fiscal year 2010 enacted amount for EMI was \$9 million. It is our understanding that the request amount for fiscal year 2012 for EMI is \$9 million although it is not specifically mentioned in the President's request. We urge you to again specifically designate funding for EMI in your subcommittee report and to require FEMA to include a specific request in the budget documents.

The \$2.9 million increase over fiscal year 2010 would support speeding the development and implementation of the Foundational Academy; continued updating and development of the field (G) and on-campus (E) courses; and, the development of other vital programs especially an Executive Emergency Management Program for State, local, and tribal emergency managers.

Our disasters and emergencies are becoming more complex, and our State, local, and tribal emergency management officials continue to assume additional duties and responsibilities.

To meet these emerging challenges, new and updated training from EMI is imperative. Lessons are being learned which must be incorporated into our professional body of knowledge. We are extremely encouraged by the renewed focus and efforts to update and enhance training programs over the past year with the funding support of the Congress. We continue to support the highly successful Emergency Management Higher Education Program at EMI which has produced significant improvements in the preparation of emergency managers at over 232 college and university programs.

DISASTER MITIGATION

We support the President's budget request of \$84,937,000. A congressionally mandated independent study by the Multi-Hazard Mitigation Council, a council of the National Institute of Building Sciences, showed that on the average, \$1 spent by FEMA on hazard mitigation (actions to reduce disaster losses) provides the Nation about \$4 in future benefits.

STRENGTHENING FEMA

IAEM-USA continues to strongly support the full implementation of Post-Katrina Emergency Management Reform Act (PKEMRA), Public Law 109-205, and we urge the subcommittee to continue insisting on its implementation. The momentum returning FEMA to long-established principles of emergency management—all hazards, integrated, all phases (mitigation, preparedness, response, and recovery)—must continue. The FEMA Administrator should be clearly responsible for the coordination of the Federal response to disasters and have the maximum amount of access to the White House as the legislation clearly requires. We are still reviewing Presidential Policy Directive-8, but are pleased that it included language that the directive shall be implemented consistent with relevant authorities, including PKEMRA and its assignment of responsibilities with respect to the Administrator of FEMA (PPD-8, page 5).

We remain concerned that FEMA functions should not be duplicated in other parts of DHS. For example, the DHS Office of Operations Coordination, created shortly after the enactment of PKEMRA, appears to be assigned functions that duplicate or compete with those of FEMA such as coordinating activities related to incident management and response.

FEMA RESPONSE IN ALABAMA

Morgan County, Alabama—my jurisdiction—was one of the 41 counties impacted by the Alabama tornadoes that happened on April 27, 2011. We were fortunate that we did not receive the same level of destruction which occurred in many other counties however we still have sufficient damage to have been included in the declaration. Alabama has a total of 67 counties.

We have an emergency management system in Alabama—a system of strong local programs working with a strong State program, coupled with a restored, more confident and nimble FEMA that is making a real difference in the lives of our citizens. The foundation of this strong local capability is the exercising, training, planning, and experienced personnel provided through the Emergency Management Performance Grant (EMPG). One thing we would like to remark on is the restoration of a past practice of assigning a FEMA person to serve as a “county liaison” for one or more counties included in the declaration. This person serves as a conduit to brief us on the latest developments related to the Federal portion of the recovery. In turn, this person can also field questions or resolve issues related to the Federal recovery. We think this is a potential “best practice”. Some of our citizens who lost their homes have already been in temporary (mobile home) housing for 1 week or more—and this is just over 1 month after our tornado event. This is a nimble response by FEMA, and it represents a real improvement from the past.

PRINCIPAL FEDERAL OFFICIAL

We would urge the subcommittee to include bill language prohibiting the funding of any position designated as a principal Federal official (PFO) for a Stafford Act event. IAEM has consistently opposed the appointment of PFOs. It leads to confusion. Instead, our members want the Federal coordinating officer to have unambiguous authority to direct and manage the Federal response in the field. It is absolutely critical for State and local officials to have one person empowered to make decisions and coordinate the Federal response in support of the State.

CONCLUSION

In conclusion, we urge the subcommittee to continue to build emergency management capacity by funding EMPG at \$350 million. We urge increasing funding for EMI to \$11.9 million. We urge elimination of the PFO for Stafford Act events.

We urge the subcommittee to continue its efforts to strengthen FEMA and to insist on the full implementation of the provisions of PKEMRA.

Thank you for the opportunity to provide testimony.